



February 27, 2003

HOUSE BILL No. 1202

DIGEST OF HB 1202 (Updated February 26, 2003 11:39 AM - DI 92)

Citations Affected: IC 6-2.5.

Synopsis: Sales tax on bundled telecommunications services. Provides that in a sale of bundled telecommunications services, which include both taxable and nontaxable services under the law concerning the state gross retail tax, the part of the services not ordinarily subject to the tax is taxable unless the provider of the services can identify the nontaxable part based on the books and records kept by the provider in the ordinary course of business. Provides that a customer may not rely on the fact that a part of the services provided are not ordinarily taxable unless the provider, upon written request by the customer, elects to provide data, based on the books and records kept by the provider in the ordinary course of business, that identify the nontaxable part.

Effective: Upon passage.

Frenz, Mahern

January 8, 2003, read first time and referred to Committee on Ways and Means.
February 26, 2003, reported — Do Pass.

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February 27, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1202

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-4-6, AS AMENDED BY P.L.104-2002,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 6. (a) As used in this section,
4 "telecommunication services" means the transmission of messages or
5 information by or using wire, cable, fiber optics, laser, microwave,
6 radio, satellite, or similar facilities. The term does not include value
7 added services in which computer processing applications are used to
8 act on the form, content, code, or protocol of the information for
9 purposes other than transmission.
10 (b) A person is a retail merchant making a retail transaction when
11 the person:
12 (1) furnishes or sells an intrastate telecommunication service; and
13 (2) receives gross retail income from billings or statements
14 rendered to customers.
15 (c) Notwithstanding subsection (b), a person is not a retail merchant
16 making a retail transaction when:
17 (1) the person provides, installs, constructs, services, or removes

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1 tangible personal property which is used in connection with the
 2 furnishing of the telecommunication services described in
 3 subsection (a);

4 (2) the person furnishes or sells the telecommunication services
 5 described in subsection (a) to another person described in this
 6 section or in section 5 of this chapter;

7 (3) the person furnishes telecommunications services described
 8 in subsection (a) to another person who is using a prepaid
 9 telephone calling card or prepaid telephone authorization number
 10 described in section 13 of this chapter; or

11 (4) the person furnishes intrastate mobile telecommunications
 12 service (as defined in IC 6-8.1-15-7) to a customer with a place of
 13 primary use that is not located in Indiana (as determined under
 14 IC 6-8.1-15).

15 **(d) This subsection applies to a transaction involving bundled**
 16 **services, which include:**

17 **(1) telecommunications services that are subject to the state**
 18 **gross retail tax under this article; and**

19 **(2) telecommunications services that are not subject to the**
 20 **state gross retail tax under this article.**

21 **Notwithstanding this section, in a transaction to which this**
 22 **subsection applies, the part of the total gross retail income**
 23 **generated by the transaction that is attributable to the provision of**
 24 **telecommunications services described in subdivision (2) is subject**
 25 **to the state gross retail tax under this article, unless the provider**
 26 **of the bundled services can reasonably identify, from the books and**
 27 **records kept by the provider in the ordinary course of business, the**
 28 **part of the gross retail income attributable to the**
 29 **telecommunications services described in subdivision (2). A**
 30 **customer may not rely on the fact that a part of the total gross**
 31 **retail income generated in a transaction is attributable to**
 32 **telecommunications services described in subdivision (2), unless the**
 33 **provider of the bundled services elects, after receiving a written**
 34 **request from the customer in the form required by the provider, to**
 35 **provide verifiable data from the books and records kept by the**
 36 **provider in the ordinary course of business that identify the part**
 37 **of the total gross retail income attributable to the**
 38 **telecommunications services described in subdivision (2).**

39 **SECTION 2. An emergency is declared for this act.**



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1202, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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